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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,124	10/21/2003	George Melkonian	MI14.408	5339

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EXAMINER

WARTALOWICZ, PAUL A

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/691,124

Applicant(s)

MELKONIAN ET AL.

Examiner

Paul A. Wartalowicz

Art Unit

1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

The objections to the drawings and rejections under 35 U.S.C. 112 have been withdrawn in view of arguments and amendments filed by applicant on February 27, 2006.

### ***Response to Arguments***

Applicant's arguments filed February 27, 2006 have been fully considered but they are not persuasive.

Applicant argues that there is no disclosure of discussion of using such a material to form a snap-in connector prong or for any use of the capstocking material for any purpose other than to form the well known and long practiced "thin, protective layer over the foamed core."

Pauley et al. teach a similar structure as claimed having two snap-in connector prongs (flexible flanges, fig 4, #42A), comprising an interior portion formed of a primary extrudate of a predetermined shape (fig 4, #40) having a prong mounting face (fig 4, #43) and a non-prong mounting surface (fig 4, #41); a base capstocking layer formed of a capstocking extrudate on the prong mounting face of the primary extrudate (col. 4, lines 44-47); a prong for use as a snap-in connector (flexible flanges for accommodating glass panes to be inserted, col. 6, lines 41-44) where the prongs are formed of the capstocking extrudate (fig 4, #42A). This disclosed structure by Pauley et al. is similar to the invention as claimed and that the prong must have a thickness, which is

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predetermined (predetermined thickness can be any thickness) and that the primary extrudate must have a predetermined shape (predetermined shape can be any shape). The prong is formed of the capstocking layer as shown in Pauley et al. (fig 4, #42A).

In response to applicant's argument that there is no disclosure or discussion of using such a material to form a snap-in connector, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant argues that Godavarti et al. discloses nowhere anything other than the use of a capstocking material for the purpose of forming the well known and long practiced thin, protective layer over the hollow composite thermoplastic resin core.

In response to applicant's argument that there is no disclosure or discussion of using such a material to form a snap-in connector, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Godavarti et al. is not relied upon to show anything other than the use of a capstocking material for use as to form a snap-in connector prong.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***New Rejections***

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 18 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pauley et al. ('075) in view of Godavarti et al. (U.S. 6265037).

Pauley et al. teaches a multi-component extrusion (col. 1, line 16) having two snap-in connector prongs (flexible flanges, fig 4, #42A), comprising an interior portion of a predetermined shape (fig 4, #40) having a prong mounting face (fig 4, #43) and a non-prong mounting surface (fig 4, #41); a capstock portion formed of a capstocking extrudate on the prong mounting face of the primary extrudate (col. 4, lines 44-47); a prong for use as a snap-in connector (flexible flanges for accommodating glass panes to be inserted, col. 6, lines 41-44) where the prongs are formed of the capstocking extrudate and are attached to the base capstocking layer (fig 4, #42A).

As to claims 21-23, Pauley et al. teaches a primary extrudate comprised of a solid foamed extrusion of foamed SAN resin and PVC resin (col. 3, lines 65-67). As to claim 24, Pauley et al. teaches of PVC resin (blends of ASA with PVC, col. 4, lines 51-54).

Pauley et al. fails to teach wherein a surface capstock portion formed of the capstocking extrudate which covers essentially the entire interior portion of predetermined shape and which has a predetermined thickness.

Godavarti et al. teach a composite material (col. 1, lines 4-7) wherein the capstock layer can cover virtually 100% of the exterior area, depending on the application of the profile (col. 6, lines 15-18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide wherein the capstock layer can cover virtually 100% of the exterior area in Pauley et al. depending on the application of the profile (col. 6, lines 15-18) as taught by Godavarti et al.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pauley et al. (075) in view of Godavarti et al. ('037).

Pauley et al. teaches a multi-component extrusion as described above. Pauley et al. fail to teach a multi-component extrusion wherein the interior portion made up of a primary extrudate is a hollow, thin walled extrusion formed of thermoplastic resin.

Godavarti et al., however teaches that the interior portion is a hollow, thin walled extrusion formed of thermoplastic resin (col. 5, lines 46-49) comprising support fibers (webs, col. 15, lines 37-40) for the purpose of developing a weatherable, mechanically stable complex profile (col. 5, lines 46-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have provided the thin-walled, hollow extrusion

of Godavarti et al. in Pauley et al. in order to impart weatherability as taught by Godavarti et al since Pauley et al. teaches that fibers may be added to enhance stiffness, impart a weatherable structure higher use temperature for hot climates and reduce expansion/contraction with thermal changes (weatherability, col. 4, lines 5-8).

As to claim 20, Pauley et al. teaches an interior portion made up of a primary extrudate comprising a PVC resin (col.3, line 65-67).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Wartalowicz whose telephone number is (571)




272-5957. The examiner can normally be reached on 8:30-6 M-Th and 8:30-5 on Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Wartalowicz  
May 3, 2006



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